

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Ridge	Team: Squad #5	CCRB Case #: 201709887	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/21/2017 5:55 PM	Location of Incident: on 6th Avenue between 42nd Street and 43rd Street	Precinct: 14	18 Mo. SOL 5/21/2019	EO SOL 5/21/2019	
Date/Time CV Reported Tue, 11/21/2017 6:30 PM	CV Reported At: Other City agency	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/29/2017 10:48 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Dipalma	17361	960465	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Fleming	19456	959636	MTS PCT
2. POF Gina Buscemi	25121	956467	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Dipalma	Discourtesy: Police Officer Michael Dipalma spoke discourteously to § 87(2)(b)	
B.POM Michael Dipalma	Force: Police Officer Michael Dipalma threw an object at § 87(2)(b)	
C.POM Michael Dipalma	Abuse: Police Officer Michael Dipalma threatened to arrest § 87(2)(b)	

Summary of Complaint

On November 21st, 2017, § 87(2)(b) called 311, who transferred § 87(2)(b) to IAB. IAB forwarded the complaint to the CCRB where it was received on November 29th, 2017.

On November 21st, 2017, at approximately 5:55PM, § 87(2)(b) was driving westbound on West 42nd Street in Manhattan when he took a right turn onto 6th Avenue and was directed to pull over by officers, including Michael Dipalma of the 14th Precinct. As § 87(2)(b) disputed the stop, PO Dipalma approached the vehicle and allegedly told § 87(2)(b) to “give [him his] fucking license.” (**Allegation A: Discourtesy**, § 87(2)(g)) PO Dipalma allegedly threw § 87(2)(b)'s keys at his face (**Allegation B: Force**, § 87(2)(g)) PO Dipalma told § 87(2)(b) he could be arrested for disorderly conduct (**Allegation C: Abuse of Authority**, § 87(2)(g))

There is no relevant video footage that captures this incident.

Findings and Recommendations

Allegation A—Discourtesy: Police Officer Michael Dipalma spoke discourteously to

§ 87(2)(b)

On November 21st, 2017, at approximately 5:55PM, § 87(2)(b) was driving alone near the intersection of West 42nd Street and 6th Avenue in Manhattan when he was pulled over by PO Dipalma and two other officers from the 14th Precinct—PO Gina Buscemi and PO Kevin Fleming (BR01).

§ 87(2)(b) testified that he immediately pulled over and began verbally disputing that he ran a light with PO Buscemi. § 87(2)(b) testified that approximately one minute into the stop, PO Dipalma approached and yelled at him to provide his license and registration. § 87(2)(b) alleged that while trying to explain himself to PO Dipalma, PO Dipalma said, “Let me see you fucking license and registration.”

PO Dipalma testified that § 87(2)(b) initially refused to pull over and almost struck an officer with his vehicle before pulling over (BR02). PO Dipalma testified that when he approached § 87(2)(b) used a raised voice and cursed, but he could not recall what § 87(2)(b) said. PO Dipalma maintained a calm demeanor throughout the course of the incident. PO Dipalma asked § 87(2)(b) for his license and registration. PO Dipalma could not recall saying “Let me see your fucking license and registration,” nor could he recall using any profanity with § 87(2)(b)

PO Buscemi and PO Fleming were consistent with PO Dipalma regarding § 87(2)(b) initially refusing to pull over and almost striking PO Fleming with his vehicle (BR03, BR04). PO Buscemi testified that she did not recall PO Dipalma using profanity, and PO Fleming testified that he could not hear what PO Dipalma said to § 87(2)(b) due to being on the opposite side of the vehicle and loud street noise.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B— Force: Police Officer Michael Dipalma threw an object at § 87(2)(b)

§ 87(2)(b) testified that shortly after PO Dipalma became involved, PO Dipalma asked § 87(2)(b) for his car keys (BR01). § 87(2)(b) gave PO Dipalma his car keys, and then handed him his license and registration. After PO Dipalma took § 87(2)(b)'s license and registration, PO Dipalma threw § 87(2)(b)'s keys at him as someone would throw a baseball. The keys hit § 87(2)(b) near the left corner of his mouth and left side of his chin, and then fell into his lap. PO Dipalma did not ask § 87(2)(b) to take the keys. After this, PO Dipalma placed the summonses which he had attempted to hand to § 87(2)(b) on the dashboard of § 87(2)(b)'s car. § 87(2)(b) did not allege sustaining any injury as a result of PO Dipalma throwing the keys at him.

PO Dipalma testified that he returned § 87(2)(b)'s car keys and summonses to him at the same time (BR02). § 87(2)(b) took all of these items from PO Dipalma. PO Dipalma could not recall throwing § 87(2)(b)'s keys at § 87(2)(b) or into his car.

PO Buscemi testified that she did not see PO Dipalma with § 87(2)(b)'s keys because she began to conduct another vehicle stop as PO Dipalma began to speak with § 87(2)(b) (BR02).

PO Fleming testified that he could not recall if PO Dipalma took § 87(2)(b)'s keys and that he did not see PO Dipalma throw § 87(2)(b)'s keys at § 87(2)(b) or into his car (BR03).

§ 87(2)(g)

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§ 87(2)(g)

Allegation C—Abuse of Authority: Police Officer Michael Dipalma threatened to arrest

§ 87(2)(b)

§ 87(2)(b) testified that after PO Dipalma asked him for his license and registration, PO Dipalma told § 87(2)(b) that he was going to be arrested (BR01). PO Dipalma did not respond when § 87(2)(b) asked what he would be arrested for. As PO Dipalma issued § 87(2)(b) summonses, PO Dipalma told § 87(2)(b) that he was lucky he was not getting arrested. § 87(2)(b) again asked PO Dipalma what he would be arrested for, but PO Dipalma again did not respond. After issuing § 87(2)(b) summonses, PO Dipalma began to walk away. § 87(2)(b) followed PO Dipalma into the street to ask PO Dipalma for his badge number. PO Dipalma provided § 87(2)(b) with this information, and then left the scene.

PO Dipalma testified that as he began to walk back across 6th Avenue after issuing § 87(2)(b) summonses, § 87(2)(b) got out of his car and followed PO Dipalma into the street (BR02). PO Dipalma told § 87(2)(b) that he could be arrested for disorderly conduct. There was a large amount of traffic at this time, and as § 87(2)(b) was obstructing traffic, his actions constituted disorderly conduct. PO Dipalma could not recall telling § 87(2)(b) at any other point that he could be arrested. PO Dipalma continued to walk back to his police vehicle, and assumed that § 87(2)(b) went back to his own car.

PO Buscemi testified that she did not see what happened between PO Dipalma and § 87(2)(b) once she began to conduct her own vehicle stop, nor did she hear PO Dipalma tell § 87(2)(b) that he could be arrested (BR03).

PO Fleming testified that due to street noise, he could not hear if PO Dipalma told § 87(2)(b) if he could be arrested (BR04). PO Fleming could not recall § 87(2)(b) exiting his car.

NYS Penal Law 240.20 stipulates that “A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof ...He obstructs vehicular or pedestrian traffic.” (BR05).

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was suitable for mediation and it was offered to § 87(2)(b) during his initial phone statement and during his in-person interview at the CCRB (BR01). Both times § 87(2)(b) rejected mediation.
- The NYC Office of the Comptroller responded to a request on February 20th, 2018, indicating that no notice of claim has been filed by § 87(2)(b) in regards to this incident (BR09).
- § 87(2)(b) § 87(2)(c)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) at the CCRB (BR07).
- PO Dipalma has been a MOS for two years, and this is the first CCRB complaint filed against him (BR08).

Squad No.: 5

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

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